

1 Steve W. Berman (*pro hac vice*)  
HAGENS BERMAN SOBOL SHAPIRO LLP  
2 1301 Second Avenue, Suite 2000  
Seattle, Washington 98101  
3 Telephone: (206) 623-7292  
Facsimile: (206) 623-0594  
4 steve@hbsslaw.com

5 Shana E. Scarlett (217895)  
HAGENS BERMAN SOBOL SHAPIRO LLP  
6 715 Hearst Avenue, Suite 202  
Berkeley, California 94710  
7 Telephone: (510) 725-3000  
Facsimile: (510) 725-3001  
8 shanas@hbsslaw.com

9 Marc A. Goldich (*pro hac vice*)  
Noah Axler (*pro hac vice*)  
10 AXLER GOLDICH, LLC  
1520 Locust Street, Suite 301  
11 Philadelphia, PA 19102  
Telephone: (267) 534-7400  
12 mgoldich@axgolaw.com  
naxler@axgolaw.com  
13

14 *Attorneys for Plaintiffs and the  
the Proposed Class*

15 UNITED STATES DISTRICT COURT  
16 NORTHERN DISTRICT OF CALIFORNIA  
17 SAN FRANCISCO DIVISION

18 IN RE SEAGATE TECHNOLOGY LLC  
LITIGATION

No. 3:16-cv-00523-JCS

19 DECLARATION OF BREANNA VAN  
ENGELIN IN SUPPORT OF  
20 PLAINTIFFS' REPLY BRIEF RE:  
RENEWED CLASS CERTIFICATION

21 DATE: Jan. 18, 2019  
22 TIME: 9:30 a.m.  
23 DEPT: Hon. Joseph C. Spero  
Courtroom G, 15th Floor  
24  
25  
26  
27  
28

1 I, BREANNA VAN ENGELLEN, declare as follows:

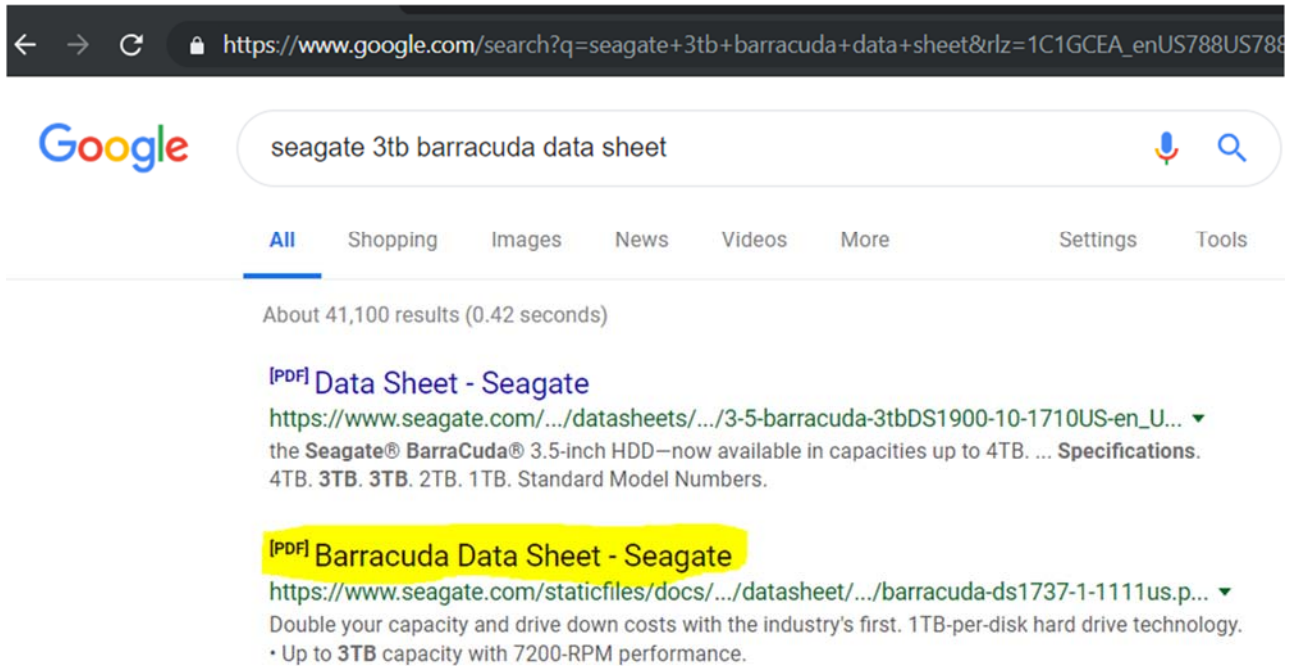
2 1. I am an attorney duly licensed to practice in Washington. I am an associate with the  
3 law firm of Hagens Berman Sobol Shapiro LLP, the attorneys for plaintiffs in the above-titled  
4 action. I have personal knowledge of the matters stated herein and, if called upon, I could and  
5 would competently testify thereto.

6 2. Prior to working for Hagens Berman Sobol Shapiro LLP, I worked as an associate  
7 for K&L Gates, LLP, where I specialized in investigating and litigating cases involving actionable  
8 online conduct. My investigations included identifying anonymous persons online accused of  
9 leaking company trade secrets in web forums, identifying users selling fake positive and negative  
10 product reviews online, investigating the origins of email spam, website scams, and other  
11 actionable trademark infringement online, and trying one of the first cyberstalking cases in the  
12 nation. All these cases involve tracking the origins of web postings, dating the web postings, and  
13 utilizing forensic tools to build a trail leading to the defendant(s).

14 3. Seagate claims “*there was no AFR on the website*” during the months of February  
15 through April of 2013. Opp. at 8 (emphasis in original). To test this claim, I conducted a series of  
16 internet searches consistent with my prior investigative work in this field.

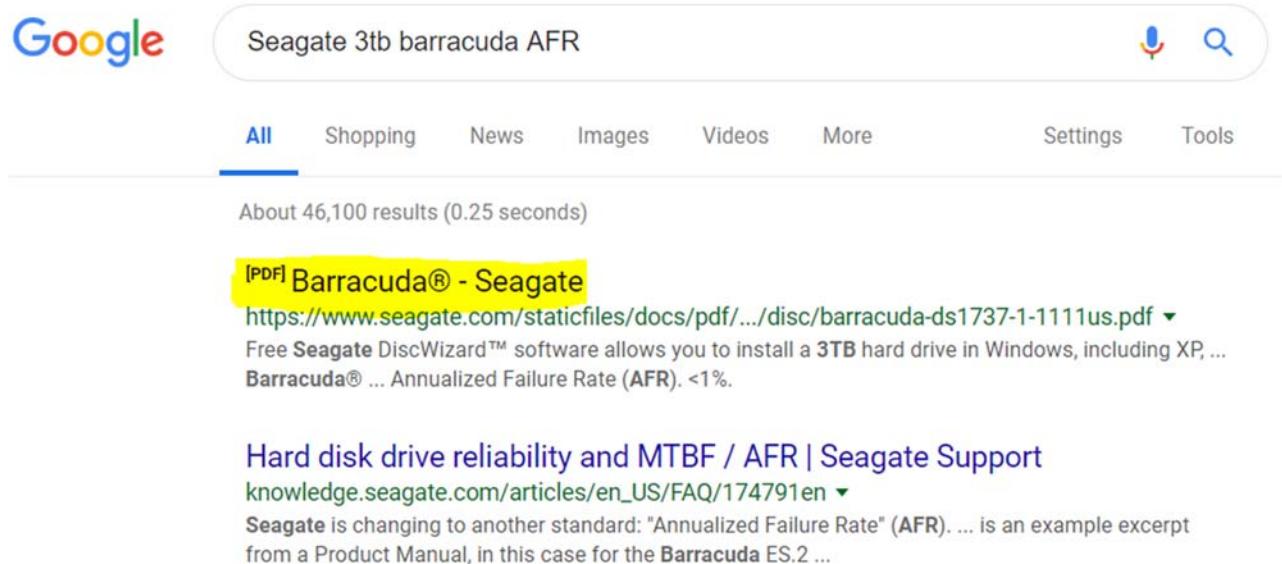
17 4. On December 7, 2018 at approximately 8:35 AM, I used Google to search for the  
18 following terms: “Seagate 3TB Barracuda Data Sheet” (quotes omitted from search). To ensure the  
19 results were unadulterated by my prior search history, I cleared my browser’s cache and conducted  
20 the search from a private browsing window, which reduces the risk that a person’s past search  
21 history will influence the search results.

22 5. The second result in Google was a live copy of Exhibit 2 accompanying plaintiffs’  
23 motion for class certification – the 2011 Seagate Barracuda Hard Drive Data Sheet – available  
24 from the website Seagate.com:

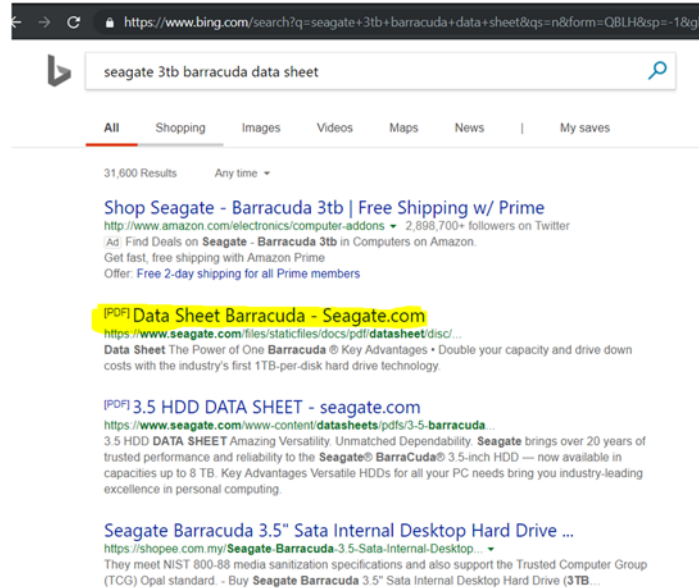


6. This search result pulls a PDF copy of the 2011 data sheet, which contains an AFR specification of less than one percent.

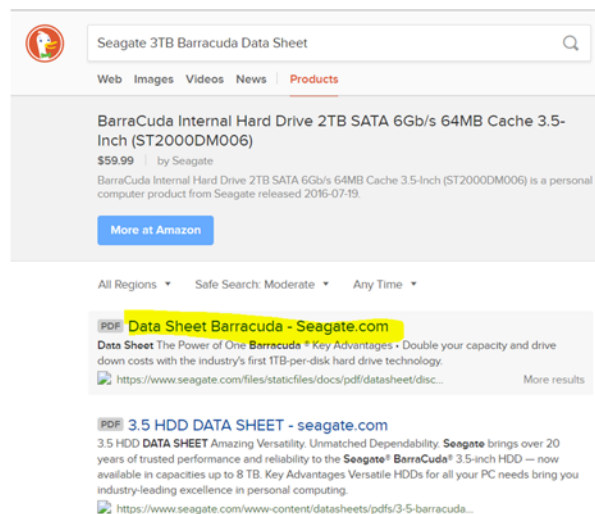
7. To cross-check this search result using different terms, I also used Google to search the phrase "Seagate 3tb barracuda AFR" (quotes omitted from search). This time, the 2011 data sheet was the first result:



8. To ensure that these results were consistent, I conducted the same search (Seagate 3TB Barracuda Data Sheet) using the Microsoft engine, www.bing.com. Once again, a live copy of Exhibit 2 was the second result, available for download from Seagate's website:



9. To cross-check that my location, search history, and IP address were not influencing these results, I conducted the same search using the website www.duckduckgo.com. This search engine emphasizes protecting searchers' privacy and avoiding the filter bubble of personalized results. This time, a live copy of Exhibit 2 from Seagate's website was the first result:



10. Hence, although Seagate claims that it removed the AFR specifications from its website, the original data sheet is still available for download from Seagate's website and accessible through a simple search (e.g. either "Seagate 3tb Barracuda AFR" or "Seagate 3tb Barracuda data sheet"). A live link to the search result is available at: <https://www.seagate.com/staticfiles/docs/pdf/datasheet/disc/barracuda-ds1737-1-1111us.pdf>.

11. Notably, Seagate's 2013 Storage Solutions Guide (which contains similar AFR representations) is also available for download from Seagate's website using similar natural language searches: [https://www.seagate.com/files/www-content/product-content/\\_cross-product/en-us/docs/storage-solution-guide-oct-13-ssg1351-14-1310us.pdf](https://www.seagate.com/files/www-content/product-content/_cross-product/en-us/docs/storage-solution-guide-oct-13-ssg1351-14-1310us.pdf)

12. To demonstrate that this link described in paragraph 10 was active during the class period, I used a simple web forensics tool that can estimate a date indicating the first time a URL has been indexed by Google and other search engines. "Indexing" is the process of downloading data from webpages and storing it into databases by search engines. It is how we find webpages when we conduct internet searches. This tool can be more accurate than relying on web archives, which provide intermittent snapshots of websites during static periods of time, but do not always show information that was accessible using search engines.



```
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13. This tool shows the earliest record that a URL was indexed by archive.org, Google, Bitly, Bing among other websites. According to this tool, the link set forth in paragraph 10 was first indexed by Google in 2011. The information above indicates – with a reasonable degree of certainty – that the 2011 data sheet has been available for download from Seagate’s website since at least 2011. Conducting the natural language searches above would have allowed users to find this document with ease.

14. Seagate also incorrectly states that Plaintiff Nelson did not purchase a 3TB Desktop HDD. Attached hereto as Exhibit A is a true and correct excerpt of his deposition.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed this 10th day of December, 2018 at Seattle, Washington.

s/ Breanna Van Engelen  
BREANNA VAN ENGELEN